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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,516	03/01/2002	Cliff Roth	GIST-005/01US	4083

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EXAMINER

LEROUX, ETIENNE PIERRE

ART UNIT	PAPER NUMBER
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2161

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/087,516

Applicant(s)

ROTH ET AL.

Examiner

Etienne P LeRoux

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 5-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 5-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### ***Continued Examination***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/5/2005, has been entered.

### ***Status of the Claims***

Claims 1, 2 and 5-27 are pending; claims 3 and 4 having been canceled. Claims 1, 2 and 5-27 are rejected as detailed below.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

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the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, 5-15 and 18-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pub No 2003/0131355 issued to Berenson et al (hereafter Berenson) in view of US Pat No 5,828,419 issued to Bruette et al (hereafter Bruette).

Claims 1, 5 and 19:

Berenson discloses:

receiving a request from a user to generate a recommendation guide [paragraph 23]

retrieving category preferences associated with the user [paragraph 39]

retrieving a list of preferred program indicators, wherein the preferred program indicators correspond to programs of interest selected by the user [Fig 1 and paragraphs 32-39]

retrieving a list of recommended program indicators [paragraph 83] the program indicators included in the list of recommended program indicators corresponding to at least one of the retrieved category preferences, wherein the recommended program indicators correspond to programs recommended to the user by a third party;

generating a list of displayable program indicators [Figs 7-9] wherein the list of displayable program indicators includes program indicators included in the list of preferred program indicators and program indicators included in the list of recommended program indicators but not included in the list of restricted program indicators [paragraph 42]

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displaying program indicators included in the generated list of displayable program indicators, wherein the displayed program indicators are arranged according to the retrieved category preferences [Figs 7-9, paragraph 63].

Berenson discloses the essential elements of the claimed invention as noted above but fails to disclose retrieving a list of restricted program indicators. Bruette discloses retrieving a list of restricted program indicators [col 4, lines 57-65]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Berenson to include retrieving a list of restricted program indicators as taught by Bruette for the purpose of excluding certain programs from the guide [col 4, lines 57-60]. The skilled artisan would have been motivated to modify Berenson per the above such that children are not able to view adult programs.

Claim 2:

The combination of Berenson and Bruette disclose the elements of claim 1 as noted above and furthermore, Berenson discloses transmitting the generated list of displayable program indicators to a set-top box associated with the user [paragraph 37]

Claim 6:

The combination of Berenson and Bruette discloses the elements of claim 5 as noted above and furthermore, Berenson discloses displaying the retrieved program data for a first program indicator included in the list of displayable program indicators, wherein the retrieved program data for the first program indicator is displayed in association with a first category included in the plurality of category preferences, wherein the first category corresponds with the first program indicator [category 1, Fig 7]

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Claim 7:

The combination of Berenson and Bruette discloses the elements of claim 5 as noted above and furthermore, Berenson discloses displaying the retrieved program data for a second program indicator included in the list of displayable program indicators, wherein the retrieved program data for the second program indicator is displayed in association with a first category included in the plurality of category preferences, wherein the second category corresponds with the second program indicator [category 2, Fig 7].

Claim 8:

The combination of Berenson and Bruette discloses the elements of claims 5-7 as noted above and furthermore, Berenson discloses displaying the first program indicator and an indicator of the first category in a row; and displaying the second program indicator and an indicator of the second category in a second row, however, Berenson does not disclose displaying the first program indicator and an indicator of the first category in a first column; and displaying the second program indicator and an indicator of the second category in a second column. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above combination of references to include displaying the first program indicator and an indicator of the first category in a first column; and displaying the second program indicator and an indicator of the second category in a second column for the purpose of placing the time axis in the first column. The skilled artisan would have been motivated to modify the above combination of references per the above such that the program guide prominently discloses program time and thus makes the program more easy to read.

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Claim 9:

The combination of Berenson and Bruette discloses the elements of claims 5-7 as noted above and furthermore, Berenson discloses displaying the first program indicator and an indicator of the first category in a first row, and displaying the second program indicator and an indicator of the second category in a second row [Fig 7]

Claim 10:

The combination of Berenson and Bruette discloses the elements of claim 5 as noted above and furthermore, Berenson discloses a list of recommended programs, wherein the list of recommended programs corresponds to programs recommended to the user by a third party [Fig 7, category 6, paragraph 83]

Claim 11:

The combination of Berenson and Bruette discloses the elements of claims 5 and 10 as noted above and furthermore, Berenson discloses receiving the list of recommended programs from a remote source [Fig 1, paragraph 33]

Claim 12:

The combination of Berenson and Bruette discloses the elements of claim 5 as noted above and furthermore Bruette discloses identifying a restricted program indicator, the restricted program indicator being selectable by the user; wherein the list of displayable program indicators does not include the restricted program indicator [col 4, lines 57-65]

Claim 13:

The combination of Berenson and Bruette discloses the elements of claims 5 and 12 as noted above and furthermore Bruette discloses removing the restricted program indicator from the list of displayable programs [col 4, lines 57-65].

Claim 14:

The combination of Berenson and Bruette discloses the elements of claim 5 as noted above and furthermore Berenson discloses identifying a preferred program indicator, the preferred program indicator being selectable by the user, and the preferred program indicator corresponding to a program of interest selected by the user, wherein the list of displayable program indicators includes the preferred program indicator [Fig 1 and paragraphs 32-39]

Claim 15:

The combination of Berenson and Bruette discloses the elements of claims 5 and 14 as noted above and furthermore Berenson discloses adding the preferred program indicator to the list of displayable programs indicators [Fig 1 and paragraphs 32-39]

Claim 18:

The combination of Berenson and Bruette discloses the elements of claim 5 as noted above and furthermore, Berenson discloses wherein the plurality of category preferences are customizable by the user [paragraph 39].

Claim 20:

The combination of Berenson and Bruette discloses the elements of claim 19 as noted above and furthermore, Berenson discloses a list of recommended programs, wherein the list of



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recommended programs corresponds to programs recommended to the user by a third party [Fig 7, category 6, paragraph 83]

Claim 21:

The combination of Berenson and Bruette discloses the elements of claims 19 and 20 as noted above and furthermore, Berenson discloses receiving the list of recommended programs from a remote source [Fig 1, paragraph 33]

Claim 22:

The combination of Berenson and Bruette discloses the elements of claims 19-21 as noted above and furthermore Bruette discloses identifying a restricted program indicator, the restricted program indicator being selectable by the user; wherein the list of displayable program indicators does not include the restricted program indicator [col 4, lines 57-65]

Claim 23:

The combination of Berenson and Bruette discloses the elements of claims 19-21 as noted above and furthermore Bruette discloses removing the restricted program indicator from the list of displayable programs [col 4, lines 57-65].

Claim 24:

The combination of Berenson and Bruette discloses the elements of claims 19-22 as noted above and furthermore Berenson discloses identifying a preferred program indicator, the preferred program indicator being selectable by the user, and the preferred program indicator

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corresponding to a program of interest selected by the user, wherein the list of displayable program indicators includes the preferred program indicator [Fig 1 and paragraphs 32-39]

Claim 25:

The combination of Berenson and Bruette discloses the elements of claims 19-22 and 24 as noted above and furthermore Berenson discloses adding the preferred program indicator to the list of displayable programs indicators [Fig 1 and paragraphs 32-39]

Claims 16, 17, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Berenson and Bruette and further in view of Pub No US 2002/0110353 issued to Potrebic et al (hereafter Potrebic).

Claim 16:

The combination of Berenson and Bruette discloses the elements of claim 5 as noted above but fails to disclose identifying a previously viewed program, the previously viewed program being associated with a target program indicator; locating the target program indicator in the list of displayable program indicators; and removing the target program indicator from the list of displayable program indicators. Potrebic discloses determining whether or not to delete the viewed portion [paragraph 77]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Berenson, Bruette and Potrebic to include identifying a previously viewed program, the previously viewed program being associated with a target program indicator; locating the target program indicator in the list of displayable program indicators; and removing the target program indicator from the list of

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displayable program indicators for the purpose of deleting a program which the user has already viewed. The skilled artisan would have been motivated to modify the above combination of references such that the viewer is spared the frustration of losing a time slot because the time slot has been assigned to a previously viewed program which is of no interest to the viewer.

Claim 17:

The combination of Berenson and Bruette discloses the elements of claim 5 as noted above but fails to disclose identifying a previously viewed program, the previously viewed program being associated with a target program indicator; locating the target program indicator in the list of displayable program indicators; and assigning a low display priority to the target program indicator included in list of displayable program indicators. Potrebic discloses determining whether or not to delete the viewed portion [paragraph 77]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Berenson, Bruette and Potrebic to include identifying a previously viewed program, the previously viewed program being associated with a target program indicator; locating the target program indicator in the list of displayable program indicators; and assigning a low display priority to the target program indicator included in list of displayable program indicators for the purpose of assigning a low priority to a program which the user has already viewed. The skilled artisan would have been motivated to modify the above combination of references such that the viewer is given the choice of once again viewing a previously viewed program in the event the viewer wants to see the program again because the viewer highly enjoyed the first viewing.

Claim 26:

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The combination of Berenson and Bruette discloses the elements of claims 19-22 and 24 as noted above but fails to disclose identifying a previously viewed program, the previously viewed program being associated with a target program indicator; locating the target program indicator in the list of displayable program indicators; and removing the target program indicator from the list of displayable program indicators. Potrebic discloses determining whether or not to delete the viewed portion [paragraph 77]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Berenson, Bruette and Potrebic to include identifying a previously viewed program, the previously viewed program being associated with a target program indicator; locating the target program indicator in the list of displayable program indicators; and removing the target program indicator from the list of displayable program indicators for the purpose of deleting a program which the user has already viewed. The skilled artisan would have been motivated to modify the above combination of references such that the viewer is spared the frustration of losing a time slot because the time slot has been assigned to a previously viewed program which is of no interest to the viewer.

Claim 27:

The combination of Berenson and Bruette discloses the elements of claim 5 as noted above but fails to disclose identifying a previously viewed program, the previously viewed program being associated with a target program indicator; locating the target program indicator in the list of displayable program indicators; and assigning a low display priority to the target program indicator included in list of displayable program indicators. Potrebic discloses determining whether or not to delete the viewed portion [paragraph 77]. It would have been

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obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Berenson, Bruette and Potrebic to include identifying a previously viewed program, the previously viewed program being associated with a target program indicator; locating the target program indicator in the list of displayable program indicators; and assigning a low display priority to the target program indicator included in list of displayable program indicators for the purpose of assigning a low priority to a program which the user has already viewed. The skilled artisan would have been motivated to modify the above combination of references such that the viewer is given the choice of once again viewing a previously viewed program in the event the viewer wants to see the program again because the viewer highly enjoyed the first viewing.

### ***Response to Arguments***

Applicant's arguments filed 4/5/2005 have been fully considered and found to be partially persuasive. In view of the request for continued examination filed by applicant, examiner provides above new art rejection which more reads on the amended claims.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne P LeRoux whose telephone number is (571) 272-4022. The examiner can normally be reached on 8:00-4:30.

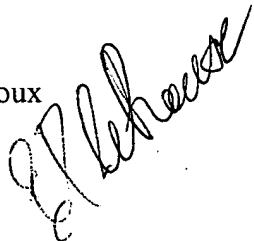
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on (571) 272-4023. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Etienne LeRoux

6/7/2005

A handwritten signature in black ink, appearing to read 'Etienne LeRoux', is written over the typed name and date.